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No. 06-1426

FILED
OCT 26 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

EX PARTE ADDIE L. JACKSON,

Petitioner,

v.

SAMUEL FISHER, ET AL.,

Respondents.

On Petition For Writ Of Certiorari
To The Court Of Civil Appeals Of Alabama

PETITION FOR REHEARING

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QUESTION PRESENTED

On the grounds of Constitutional law 92(1)(2)(3)(4) and its Equal Protection Clause, the question is whether, the Act 497 of the 1965 Alabama Legislature, Section 18, Funds Exempt is unconstitutional as applied to the petitioner? (*Ex parte Shirley Squires and Ronald Squires,* 960 So.2d 661 (2006)), (*Bratton v. City of Florence*, 688 So.2d 233 (1996)).

Whether, the trial courts acted arbitrarily or capriciously involved question of fact precluding summary judgment? (*Bratton v. City of Florence*, 688 So.2d 233 (1996)).

LIST OF PARTIES

Ex parte Addie L. Jackson, Petitioner

Samuel Fisher, an individual and has a part of corporation, Wiggins, Childs, Quinn & Pantazis, LLC, et al., Respondents

Dennis G. Pantazis, Counsel of Record for all Respondents

Solicitor General of the United States Department of Justice

Troy King, Attorney General of the State of Alabama

PETITION FOR REHEARING

Petitioner demands relief from judgment below.

OPINIONS BELOW

Judgment from the Jefferson County Alabama Circuit court's summary judgment order, August 15, 2005.

The Alabama Court of Civil Appeals, affirmed is UNPUBLISHED, March 17, 2006.

The Supreme Court of Alabama, denied, is UNPUBLISHED, January 12, 2007.

JURISDICTION

A timely petition for writ of certiorari was thereafter denied on the following date: October 1, 2007.

The jurisdiction of this court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Law 92(1)(2)(3)(4)

The General Retirement System for Employees of Jefferson County is governed by Act 497 of the 1965 Alabama Legislature, section 18. Funds exempt. September 11, 2000, letter.

Code of Alabama 1975, 36-27-28

(Act 1935, No. 355 p. 777; Code 1940, T.7 166) Code of Alabama 1975 6-6-227. Persons to be made parties; rights to persons not parties.

Supreme Court Rule 29(c)

28 U.S.C. § 2403(b) may apply and shall be served on the Attorney General of that state. In such a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial document also shall state whether that court pursuant to 28 U.S.C. § 2403(b), certified to the State Attorney General the fact that the constitutionality of a statute of that state was drawn into question.

The court pursuant to 28 U.S.C. § 2403(b) did not certify to the State Attorney General the fact that the constitution of a statute of the State of Alabama was drawn into question.

Supreme Court Rule 29(b)

28 U.S.C. § 2403(a) may apply and shall be served on the Solicitor General of the United States,

Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, D.C. 20530-0001. In such a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial document also shall state whether that court, pursuant to 28 U.S.C. § 2406(a), certified to the Attorney General the fact that the constitutionality of an Act of Congress was drawn into question.

The Court pursuant to 28 U.S.C. § 2403(a) did not certify to the State Attorney General the fact that the constitutionality of an Act of Congress was drawn into question. Rule 10(a)(b).

STATEMENT OF THE CASE

On the grounds of constitutional law 92(1)(2)(3)(4). The following statement of case to be considered in support of rehearing.

Petitioner applied for pension benefits August 4, 2000. The trial court's order includes benefits up to and including June 21, 2000, retirement is a separate legal entity. The trial court ordered judgment before genuine issues of facts were clear and negated the individual judicial scrutiny, is indicative of arbitrary and capricious action. *Bratton v. City of Florence*, 688 So.2d 233 (1996). Ala. R. Civ. P. R. 9(d).

Accordingly, since the trial court ruled on the wrong facts, before genuine issues of material facts were determined, is questionable as to whether

Respondents were entitled to summary judgment as a matter of law. Ala. R. Civ. P. Rule 56(c), *Bratton v. City of Florence*, 688 So.2d 233 (1996).

The Respondents have taken unfair advantage through delay, false language, false representation and concealment, holding settlement checks outside of the client fund for 14 months, calculating retirement benefits as settlement and most recently in this court, filed July 20, 2007, letter attached to waive as brief in opposition is a violation of Rule 15(3)(4), in that letter, paragraph 4, page 2, settlement checks were sent to petitioner, false language. Respondents conduct has prevented clarity or material facts throughout the case. The original checks issued June 27, 2000, were reissued April 2, 2001, deposited September 5, 2001, (ROA p. 36, 37, 47, 48) without my knowledge or consent. On July 27, 2000, Respondents stated the checks were in the client's fund. To date, Respondent has been holding my share of the settlement and my replacement pay check for seven years (*see* July 31, 2000). *Bratton v. City of Florence*, 668 So.2d 233 (1996).

REASON FOR GRANTING PETITION FOR REHEARING

On the grounds of Constitutional Law 92(1)(2)(3)(4) and its Equal Protection Clause, Petitioner demands that the Petition for Rehearing, Writ of Mandamus and Prohibition be granted relief from trial court's

summary judgment and the case reversed and remanded. (*Bratton v. City of Florence*, 688 So.2d 233 (1996)), (*Ex parte Shirley Squires and Ronald Squires v. City of Saraland*, 960 So.2d 661 (2006)).

Petitioner is in aid of this Court's appellate jurisdiction, exceptional circumstances warrant the exercise of the Court's discretionary powers and adequate relief cannot be obtained in any other form or any other court because of time barred. Rule 10(a)(b); 28 U.S.C. § 1257(a).

CONCLUSION

On the grounds of Constitutional Law 92(1)(2)(3)(4), Petitioner demands Rehearing be granted and the case reversed and remanded.

Respectfully submitted,

ADDIE L. JACKSON

Date: October 26, 2007

CERTIFICATE OF COUNSEL

I hereby certify that this Petition for Rehearing is submitted in good faith and not for delay. This Petition for Rehearing is restricted to the grounds set out in Rule 44.2.

ADDIE L. JACKSON